

Town of Nolensville
Board of Mayor and Aldermen Meeting
Date: January 3, 2008, Time 7:00 p.m.
Nolensville Elementary School

Mayor Beth Lothers opened the meeting at 7:04 p.m. Members present were Mayor Lothers, Aldermen Jimmy Alexander, Joe Curtsinger, Tommy Dugger, and Ken Thomas. Staff present: Counsel Robert Notestine, Town Planner Henry Laird, Engineer Don Swartz, Consultant Bobby Garland, and Recorder Cindy Lancaster. There were 18 citizens present.

Reverend Alfred Bennett delivered the prayer, and led the Pledge.

Citizens Input:

Reverend Alfred Bennett, 7286 Nolensville Road, A Home Place Bed and Breakfast, stated that he thought he had heard something about a gun ordinance and how many acres you need to have to target practice on your property. Reverend Bennett stated that most people have the mentality that no one should tell you what to do on your property. He stated that when he was a child he was shot in the leg by a B-B gun. He also stated that a child lost his eye due to a B-B gun accident. Reverend Bennett stated some mischievous activity had taken place behind his home at the creek on Halloween. He ended by telling the board the last thing the town should allow is to shoot a gun in the town limits.

Mr. Harold Shafer, 2030 Williams Road, stated that he has lived there for 27 ½ years. He further stated that when he first moved there he could target shoot and hunt on his property. He said that he did not see why he shouldn't be able to continue to do that. He told the board that he was all for safety and everyone should be careful. He further stated that he thought there was always going to be some people who are never going to be careful. He stated that his property was 200 feet wide and with this ordinance he has only a narrow strip down his property that he would be allowed to shoot a gun. He further noted at the location he had previously shot his gun on his property, no one was around. He added that he felt if the board was going to have an ordinance to limit it to two acres or less and leave the rest up to the state laws.

Mr. Gardiner Jones, 700 Cromwell Court, stated that he was not here to be antagonistic to anyone on the board, but he did have strong feelings in regards to the discharging of firearms ordinance. He noted that he was not opposed to have an ordinance to control firearms, but he believes the current ordinance is not sufficient. He stated that it should account for proper firearms. He added that he did not think a \$50 penalty would thwart someone from shooting a gun. Mr. Jones stated that he would not want someone to shoot carelessly into his backyard. He handed out a sample ordinance and ask that the board review this document. He further asked the board not to pass something just to get it on the books.

Mr. Jerry Lawson, 2410 Rocky Fork Road, stated that when he first heard about this ordinance he thought it was very laughable. He stated that currently there are sound ordinances that were passed that cover the sound of a gun. He stated that people have to be responsible. He stated that he feels the board is passing ordinances that are already there.

Ms. Paulette Sullivan, 7171 Nolensville Road, stated that on New Years Eve fireworks were discharged in addition to the shooting of guns across the road from her home. She stated that she hoped this ordinance would cover situations such as this. She noted that there are residential rental properties on Nolensville Road and she feels these residents really do not care. She added that people have been doing target practice on the Yazdian property. When this was done the guns were directed at the elementary school. She stated that she was in favor of bearing arms and the ability to protect your property. She noted that she resided in a commercial zone and people should have concerns for the residents in this area. She said that she was in favor of this ordinance.

Alderman Dugger made a motion to approve the minutes from December 6, 2007 meeting. Alderman Alexander seconded and the minutes were approved unanimously.

Mayor Lothers made a motion to approve the November Treasurers report, Alderman Dugger seconded. This report was approved unanimously.

COMMITTEE REPORTS:

Mr. Henry Laird reported for the Planning Commission.

- Phase four of Bent Creek was approved
- A Zoning Amendment were approved in the CR Zone
- A Zoning Amendment was approved in regards to uses in OI Zone

Alderman Ken Thomas reported for the Historic Commission.

- There was no meeting/report

Fire Chief Presley Hughes reported for the Nolensville Volunteer Fire Department.

- Distributed written percentages for the quarter
- There was a decline in fire calls due to ban being placed on burning
- Medical and Alarm calls have increased
- Community Enhancement Grant of \$6,250 was awarded to the department

Planner Henry Laird reported for the Planning Department.

- Noted some commercial projects would be presented next week
- Cathi Little will be assisting in the Planning Department

Engineer Don Swartz reported for the Engineering Department.

- Distributed a written report to the Board
- \$25,000 was allocated for road repair
- Clovercroft Road is being reviewed for minor repair
- Oak Creek Drive is in the process of being repaired by the Developer
- Determination of Hyde Lane being a public or private road is ongoing
- York, Williams, Sunset and Kidd Road striping is being reviewed

Police Chief Paul Rigsby reported for the Police Department.

- December written statistics were distributed to Board
- Officers have completed all training
- Officer will be attending free training in Mississippi
- Restructuring of Department – one officer will concentrate on traffic
- \$1,250 Community Enhancement Grant was awarded to Department

Mr. Bob Hayes reported for the Public Works Department.

- No report. Asked if Board had questions – there were no questions

Mayor's Report:

- a. Rocky Fork Road realignment

Mr. Bobby Garland, Florence and Hutcheson stated that the weather has turned bad and this has affected progress. He noted that the project has been shut down until spring. He stated that banks and slopes have been temporarily seeded. The contractor is doing general work in other areas. Mr. Garland stated that if the contractor comes across rock he would like to place it on Rocky Fork. He noted that there have been two issues that are currently being dealt with. He noted that some of the asphalt binder mix material was deficient. He stated that the contractor agreed, corrected the deficiency and the retest was good. Mr. Garland stated that the concrete strength on the deck bridge is lower in strength than required by contract. Mr. Garland reiterated to the Board that the bridge is structurally sound. He explained that with an added strength a tighter concrete mix is formed. He stated that there is a tighter mix, but it is structurally sound. He noted that the same formula is being used that TDOT uses. Mr. Garland stated that there will be approximately a \$23,000 reduction.

Mr. Garland noted that the progress of Rocky Fork Road is now driven by the weather. He added that generally in mid March the putting down of rock may be initiated. Mayor Lothers inquired about erosion control and clarified that John Strasser would be continuing to perform these inspections while the road was in its current condition. Mr. Garland stated that Mr. Strasser has been performing these on his own, although if he needs Florence and Hutcheson they will assist him in anyway.

Alderman Curtsinger asked what the difference was in regards to durability compared to what it should have been and what it is now. Mr. Garland stated that he really could not say, although the sets were 3895, 4345, 3525, 3090, and 3305. Alderman Curtsinger asked what would be the first sign of deficiency, would there be cracking. Mr. Garland noted that all concrete cracks. He added that the less permeable it is it allows rock and moisture to seep down. Alderman Curtsinger asked if the town would be looking at repairs at an earlier date. Mr. Garland stated that more of it depends on the weather. He stated that if there is snow and ice and you have to put salt on the bridge that effects concrete the most, although he could not predict that. He stated that five years from now you may not have any damage. Alderman Curtsinger stated that there should be an answer out there. Mayor Lothers asked Mr. Garland should the Town use precaution and treat the road with another solution other than salt. Mr. Garland noted that there is a product called black beauty that could be used or sand could be used which is better than salt

on concrete. Mayor Lothers inquired about how the reduction is calculated. Mr. Garland stated that based on the contractors number the deck was (by memory) estimated \$78,000 and it was about \$400 a cubic yard with a \$23,000 reduction. He stated that is approximately a third. Mayor Lothers asked Mr. Garland to explain how the process worked. She noted that it appears some of the testing met the requirements and some did not. Mr. Garland noted that two sets of the test exceeded the requirements; one set was approximately 500 lower than the requirement in addition to one about 900 lower. He stated that while talking to the supplier, he is of the opinion that the lower test is due to air. He explained the process noting that the test was performed from the concrete truck allowing into the test mechanism.

Mayor Lothers commended Mr. Garland and Mr. Swartz for their hard work on the road.

b. Request for proposals – Signalization Engineering

Town Engineer Don Swartz addressed the board noting that they had a copy of the Engineering proposals for signalization. Mr. Swartz stated that the three proposals had representation tonight so that they may answer questions from the board. He noted that Mr. Stan King with Florence & Hutcheson, Mr. Bob Murphy of RPM and Mr. Tom Clinard with Clinard Engineering was in attendance.

Mr. Swartz told the board that he was not prepared to recommend any firm, although he would hire any of the three noting that they are all very capable.

Mr. Bob Murphy addressed the Board noting that his firm did not provide a line item for inspections, although they would do so. He noted that the reason this was not done was due to the level of inspection not being specified. He noted that they felt that it should not exceed \$9,000, therefore that total was given. Mr. Murphy stated that he would be glad to answer any questions that the board may have.

Mayor Lothers asked Mr. Clinard that he may want to make a clarification. She stated that it was her understanding that a construction inspection could mean different things to different people. Mr. Clinard stated that is correct. He noted that it could mean weekly or daily inspections. Mr. Clinard stated that his firm looked at it as a full-blown inspection, versus a TDOT inspection. Alderman Curtsinger asked if this was presented to each of the firms in the same form. Mr. Swartz noted that the town received the first proposal from Florence & Hutcheson. He cleared out the cost and the other firms filled in the blank. Alderman Alexander asked if any three of these firms could provide these services. Mr. Swartz stated yes. Alderman Alexander clarified that the board has three firms that can perform the job, although the three costs are different. Mr. Swartz stated that was correct although Mr. Clinard explained his caveat.

Alderman Thomas asked from the engineering perspective are they all three equal. Mr. Swartz stated that he felt they are all on a level playing field. He added that he would not hesitate to work with any of the three firms.

Alderman Alexander addressed Counsel Notestine noting that he had worked on several occasions with a relative of one of the applicants. He asked if he should recuse himself from the vote. Counsel Notestine stated that he was not hearing that Alderman Alexander had any

“business” with any of these companies. Counsel added that if he felt more comfortable by recusing himself than he may want to do that.

Alderman Thomas noted that it makes it hard, due to one not bidding on an inspection at all and one who bid on the excessive side. He stated that it appears the board has to choose between apples, oranges, and bananas. Alderman Curtsinger stated that he would feel more comfortable if they were sent back and present a corrected, more accurate document. Alderman Alexander asked if the board should let these three go back and compile the information that is needed. Mr. Swartz stated that if the board would prefer the town could make a request by a formal bid.

Mr. King stated that he had worked with the town and knew what the town was in need of and therefore were able to define the proposal amount. He added that he felt it would not be fair to go back, due to everyone has viewed the proposal amounts. He stated that his proposal would probably not change.

Mayor Lothers stated that she sees a little difference in the time frame. Mr. King stated that there are several footnotes in the schedule with their understanding of the proposal and past experience with these types of projects. He noted that the construction is for a simple signalization, if the town is using decorative post then that would take more time. He asked the board to not only look at the final dead-line, although also look at the footnotes.

Alderman Dugger asked what all does these proposals entail. He asked if it was for the design of the signalization. Mr. Swartz stated that is correct in addition to the turn lanes and road way accommodation. Alderman Dugger noted that in one proposal it has contract bidding and award. Mr. Swartz stated that would be for the administration of the bid.

Mayor Lothers stated that on two documents they are basically the same and very similar. Mayor Lothers asked Mr. Swartz if he felt that there was any additional information that the town could give these firms. Mr. Swartz stated that the only question would be Mr. Clinards scope of services, although they never brought this question prior to submitting the proposal. He stated that he was not sure what else he could provide them to bring any further information to the table. Mayor Lothers stated that in regards to the time frame she knew the holidays may have played a role in the submission of the proposals. She added that she would be willing to call a special meeting, but she would hate to wait another month. Mayor Lothers noted that she felt all three are really fine firms.

Alderman Thomas noted that you consider the \$9,000 from RPM, then there are two bids that are very close and then Clinard is approximately \$40,000. Alderman Curtsinger stated that it appears the only difference is in the inspections. He noted that Florence & Hutcheson has come in with a number, RPM did not put a number, and the third guy did not put in a number. Mr. Swartz stated that RPM stated in the cover letter that they could give hourly rates. Counsel Notestine stated that he keeps hearing the word bid. He wanted to clarify to the board that these are proposals not bids. The bid process is a different process.

Mayor Lothers made a motion to approve Florence & Hutcheson, Alderman Dugger seconded. Alderman Curtsinger stated that he felt there should be some more understanding.

He stated that Florence & Hutcheson does not seem to understand elevations and right of way acquisition.

Mayor Lothers stated that Alderman Curtsinger was incorrect. She clarified that there are design engineers and surveyors involved with the project apart from Florence and Hutcheson. She noted that Clifton and King was the engineer for the road and the bridge strength has to do with the concrete company. She further added that the right of way issue had nothing to do with Florence and Hutcheson, but rather a party who dedicated a right of way they did not own. Mayor Lothers asked Alderman Curtsinger if he would like to be blamed for something that he did not do.

Alderman Curtsinger stated that the board had 10 minutes to look at the Rocky Fork Road realignment bid that was 300 pages. Mayor Lothers stated that is not correct. She said that the Town Engineer got these documents to the board in advance.

Alderman Dugger stated that Florence & Hutcheson is overseeing this project and they are the ones who are catching these problems. He stated that you can't hold the firm overseeing the project responsible for these errors.

Alderman Curtsinger inquired if the town is going to pay someone \$43,000 to design the signalization.

Alderman Dugger stated that the board is selecting a company to design the signalization to TDOT standards. He stated that whoever is given this proposal will perform the design. He stated that Florence and Hutcheson did not design the Rocky Fork Road realignment, they are overseeing the project.

Alderman Thomas stated that this is a different project and the board needs to keep that in mind. Alderman Dugger noted that they have submitted a complete proposal document. Alderman Thomas stated that he understands the town has a hard fast date once Rocky Fork is completed. He stated that one thing about keeping the project moving is there will be some close proximity to both projects opening at about the same time. He stated that he knew there were a lot of factors. Mr. Swartz stated that he did not think the town would see the completion to coincide with each other.

The vote was taken with Mayor Lothers, Aldermen Dugger, and Thomas for, Alderman Curtsinger abstained, and Alderman Alexander recused himself. Florence and Hutcheson proposal was approved by majority.

c. Other

Mayor Lothers noted that she had attended a grant funding seminar. She stated that a second seminar was held regarding growth and water challenges. She noted that Mayor Rogers Anderson hosted this seminar.

Second reading of ordinance 07-22, an ordinance to amend the Zoning Ordinance 04-09, in regards to the National Flood Insurance Program. Alderman Dugger stated that this is to clean up language to allow the town to participate in the Flood Insurance program. Alderman Dugger

made a motion to approve this ordinance, Alderman Alexander seconded, and this was approved unanimously.

Second reading of ordinance 07-23, an ordinance to amend Title 11, Chapter 5, of the Municipal Code in regards to Firearms.

Mayor Lothers thanked the citizens for their input. She distributed copies of the ordinance samples from other municipalities, firearms ordinance research document, the TWRA law, Brentwood's ordinance, and an ordinance from Port Angeles in Washington State submitted by Mr. Jones. She ask the board if they would like to have a workshop due to the number of documents that have been distributed this evening.

Counsel Notestine noted that a gentleman earlier stated that the town should fine more than \$50. He clarified that under the State Constitution the town is only allowed to fine \$50.00. He stated that he wanted to make sure that this was clear to the board.

Alderman Alexander stated that you can look on the internet all day long and see different ordinances addressing firearms.

Mayor Lothers ask that Mr. Bob Hayes demonstrate 100', so that the board could have an actual visual on this length. She noted that TWRA is not 100', although 100 yards. Counsel Notestine stated that he was surprised at Nashville's ordinance. He stated that they have different districts and different rules apply to each of those areas.

Alderman Thomas said that one thing is apparent; it would be helpful to have some definitions. He noted that he recalled Alderman Curtsinger had mentioned this last month and he thinks it was a good suggestion and would help the board move forward.

Alderman Alexander stated that he had gotten a firearms definition off of the internet. Alderman Thomas read the definition.

Alderman Curtsinger stated that he had an email from one of the persons that had initiated the complaint. He stated that this incident had occurred at 2:00 a.m. Alderman Curtsinger asked why the offenders weren't cited.

Mayor Lothers stated that she had spoken with six different families and she has heard several different stories. She said that she had heard a cat was shot, in addition to hearing of a separate incident of a target practice.

Alderman Curtsinger said that he was told when the offender was approached he flashed a weapon in front of the police and nothing was done.

Counsel Notestine stated that he was not aware of any of these incidents. He stated that when this issue came up, he was told that when the police arrived there was no noise.

Alderman Thomas stated that he thinks the board should step back and look at a larger picture. He stated that he felt this ordinance was not just taking care of one situation, but a broader view.

Alderman Dugger stated that two citizens, Ms. Sullivan and Reverend Bennett, shared concerns that had occurred recently. Alderman Thomas stated that maybe a workshop is necessary in addition to definitions being very beneficial.

Alderman Alexander stated that last month there was discussion of this occurring in Ballenger Farms. He stated that it was hard for him to believe that citizens could not call the police and they come out and do something. Mayor Lothers stated that the Police Chief has conveyed to her that currently they do not have enough authority to enforce something like this.

Counsel Notestine stated that if there isn't an ordinance the town cannot hear it in Nolensville court. Alderman Thomas asked if someone has a target and its not reckless endangerment, but it shoots a car going down Nolensville Road, isn't that reckless endangerment.

Mayor Lothers stated that she feels if this many people have come forward, something needs to be done. Alderman Curtsinger stated that this ordinance is penalizing everyone. He stated that the town is penalizing people who live on large lots. Mayor Lothers stated that she disagreed. She stated that if the board did not care about the rural citizens and larger lots we wouldn't be here tonight trying to come up with a compromise.

Counsel Notestine stated that the board may want to look at discharge areas and non-discharge areas. He noted that he remembered previously when this came up; the people on the large lots were against it.

Alderman Alexander stated that he thought about identifying all the subdivisions that have been approved, then Ms. Sullivan shared her concerns and this was not in a subdivision.

Mayor Lothers stated that she had a property owner in the Historic area, that said when someone is shooting they have to be mindful that their grandchildren are not out. She asked Ms. Sullivan if there was something that dictated a certain number of feet would that assist her situation. Ms. Paulette Sullivan said that her concern is that there are people that have no regard whatsoever. She noted the various businesses within the area and the rental houses adjacent to the business, in addition to the close proximity to the school and they are doing target practice. She said that she is concerned, and there should be some type of ordinance. She added that currently our Police Chief cannot do anything and our neighbor was doing target practice at 1:30 a.m.

Mayor Lothers recommended that the board take time to digest this, then come back and hold a workshop to hash this out. Alderman Dugger stated that the board has a lot of information that can be reviewed. He added that the board wants to be respectful of the people who have ten acres, and maybe we need an out if you have permission from a neighbor.

Counsel Notestine stated that blank cartridges and theatrical cartridges are listed on one of the samples and he had not thought of that form of weapon.

Alderman Alexander stated that maybe the board should appoint a committee to work on an ordinance that would be acceptable. Alderman Dugger stated that he felt what ever the board passes should be good for the next several years.

Mayor Lothers made a motion to defer to second reading to next month and hold a workshop session prior to that meeting, Alderman Thomas seconded. Alderman Thomas stated that in light of Alderman Alexander's recommendation and to have some accountability, the board members should read these documents, do some homework on what we think, and what other people have brought to us. The vote was taken and this was approved unanimously.

Second reading of ordinance #07-24, an ordinance to amend Title 12, Chapter 1, of the Municipal Code in regards to Fees in regards to plans review. Alderman Dugger made a motion to approve this ordinance, Alderman Thomas seconded.

Alderman Curtsinger asked for clarification on fees for the Home Depot that is anticipating coming to Nolensville. Mr. Michael Blanks, Building Official, addressed the board, noting that due to the various permits there was not a clear cut answer to that question.

Alderman Curtsinger asked what the building permit fee for the Yazdian property was. Alderman Alexander stated that he thought with everything it was approximately \$60,000. Mr. Blanks stated that he thought it was approximately \$68,000. Alderman Curtsinger asked if the town had any buildings that would cost over \$5,000 for plans review. Mr. Blanks stated no, that he did not see where we would have anything that would exceed the town cost of \$5,000.

Alderman Curtsinger then asked why the town is passing this ordinance. Mr. Blanks stated that currently if a building permit cost \$40,000, a plans review would cost \$20,000 and this is extremely excessive.

The vote was taken and this passed unanimously.

Second reading of ordinance #07-25, an ordinance to amend Title 7, Chapter 3, of the Municipal Code in regards to the sprinkler ordinance. Alderman Dugger made a motion to pass this ordinance, Alderman Alexander seconded. Alderman Dugger stated that this is basically a clean-up ordinance. He noted that Mr. Blanks brought this to him and Chief Hughes is in favor of this ordinance. The vote was taken and this passed unanimously.

First reading of ordinance 08-01 an ordinance to amend the zoning ordinance 04-09, in regards to permitted uses in the office industrial (OI) district as it pertains to religious institutions and animal boarding facilities. Mayor Lothers made a motion to pass this ordinance, Alderman Alexander seconded.

Planner Henry Laird noted that he had distributed a memo that explained this ordinance. He briefly went over the ordinance.

Alderman Dugger stated that he was concerned that a lot of buildings in OI may not be built to hold a large number of people. He stated that he has concerns on how the town is going to make sure that they comply.

Mr. Blanks stated that Alderman Dugger's concerns are valid. He noted that the town has Codes and Fire safety issues with an assembly.

Counsel Notestine stated that all codes with fire and safety would still have to comply with. He said that this is saying that it can go into that particular zoning, not that it does not have to follow the town's building code.

Planner Laird noted that currently in the OI a church could not be housed in this zoning. He stated that this ordinance is only allowing this use. He reiterated that they still would have to go through the site plan process, in addition to meeting all codes.

Alderman Dugger asked at what part of the process do they come to us and get a permit. He noted that currently there is a church meeting in that zoning and they have not gone through the permit process.

Counsel Notestine stated that he thinks traditionally cities have allowed churches in every zone.

Alderman Dugger stated that he wanted to make sure the town has the tools in place to make sure that the Life and Safety codes are met. He referred to the church that is currently being held in the Recreation Center. He asked if they are abiding by the code. He also inquired about parking issues. Alderman Thomas stated that they must abide by the rules in regards to safety.

Alderman Curtsinger inquired to grocery stores, gasoline sales, or retail sales being allowed in the OI zone. He noted that the town beer ordinance does not allow churches to be within a certain number of feet from establishments selling beer. Planner Laird went over the various businesses that can go into the OI zone. Alderman Curtsinger noted that the most recent BP station, "In and Out" would not have been allowed if a church was in that area.

Counsel Notestine stated that this was discussed briefly at the Planning Commission meeting. He noted that it would be on a first come first serve basis. He noted that Adult Entertainment is in the same situation.

Planner Laird noted that you are not denying any use. The vote was taken and this passed unanimously.

First reading of ordinance 08-02, an ordinance to amend the zoning ordinance 04-09, in regards to lighting standards and wall sign limitations. Alderman Alexander made a motion to pass this ordinance, Mayor Lothers seconded.

Mayor Lothers noted that Mr. Laird had distributed a memo in detail explaining this ordinance. Alderman Alexander clarified that this is in relation to a sign on a building. Mr. Laird stated that is correct, with the scale it will allow more signage area.

Mr. Laird discussed this in regards to parking and how the sign would relate. He discussed the lighting and the height. He noted that 40' was placed in the ordinance; although he noted that it may need to be reviewed and 35' maximum be placed. He stated that the Planning Commission will have some flexibility now, but there is a strict height requirement.

Alderman Dugger asked in regards to lighting if there was anyway the first several rows may have more traditional lighting. Mr. Laird read a section that reflects the changes in the parking

area lighting. He stated that the Planning Commission will still be reviewing the site plan and looking at the whole picture.

Alderman Dugger made a motion to amend from 40 feet to 35 feet maximum, this motion died for a lack of second.

Alderman Curtsinger inquired about the sign size. Mr. Laird stated that the town was informed that we were too restrictive in terms of scale. He noted that the Planning Commission was recommending keeping the restrictions on signage out front.

Alderman Curtsinger inquired about the lighting and disturbance to the residential area. Mr. Laird stated that it should be friendlier in addition to the style matching the subdivision. He noted that it would have more of a traditional look.

Alderman Dugger stated that the town has a 50' maximum. He clarified that a building 100,000' long could have a 1,000 foot sign. Mr. Laird stated that they will probably have smaller signs. Alderman Curtsinger asked if the size really mattered. He noted that in Colorado they have McDonald's arches on a mail box and everyone finds it. Alderman Alexander stated that next week, plans will be distributed so that staff will know how it is going to look.

The vote was taken and this ordinance passed unanimously.

The meeting adjourned at 9:33 p.m. by acclamation.

Respectfully submitted,

Approved,

Cindy Lancaster
Town Recorder

Beth Lothers
Mayor